

# Traffic Safety Facts

## Laws

January 2006

## Administrative License Revocation

### Background

The National Highway Traffic Safety Administration (NHTSA) encourages States to require prompt, mandatory revocation or suspension of driver's licenses for alcohol and other drug test failure and refusal. Motor vehicle crashes are the leading cause of death for people 3 through 33 years old in the United States. Thirty-nine percent of motor vehicle crash fatalities are alcohol-related. Suspending or revoking driver's licenses for those driving while under the influence of alcohol or other drugs has proven to be a successful deterrent when implemented by a State.

Administrative license revocation (ALR) laws are based on objective chemical tests (usually breath, sometimes blood or urine) and are similar to "illegal per se" criminal laws against impaired driving. ALR allows law enforcement and driver

licensing authorities to revoke or suspend a driver's license swiftly, without long delays, while awaiting a criminal trial. The offender retains the right of due process through an administrative appeal system.

### Key Facts

- As of January 2006, 41 States and the District of Columbia have ALR laws that result in immediate license revocation based on a blood alcohol concentration (BAC) of .08 grams per deciliter or a breath test refusal.
- In 2004, 39 percent of the 38,253 fatal motor vehicle crashes nationwide were alcohol-related. This percentage equates to 16,694 alcohol-related deaths.
- Research has found that ALR laws reduced fatal crashes by approximately 9 percent during high-risk (late night) periods of alcohol involvement.
- Research in Illinois, New Mexico, Maine, North Carolina, Colorado, and Utah showed significant reductions in alcohol-related fatal crashes after enacting ALR laws.
- For laws to be effective, publicity is an important factor because drivers must know and understand the consequences of their actions. One research

study conducted in Nevada found a 12-percent reduction in alcohol-related crashes following implementation of a publicity campaign designed to inform the public about the ALR procedure.

- ALR does not have a major impact on an offender's job or income. A 1996 study compared three ALR States with one State that used other sanctions for impaired-driving; there was no difference between ALR and non-ALR States in offender employment or income. In both ALR and non-ALR States, 94 percent of the offenders who were working at the time of their arrest were still working one month later; 4 percent were unemployed; and the remaining 2 percent were in school. License revocations as long as 90 days did not lead to a loss of job or income.
- ALR is constitutional. All cases in which the highest State appellate courts have considered ALR issues have held that a separate criminal trial for an impaired driving offense following an ALR action does not constitute double jeopardy under either Federal or State constitutional law.
- The U.S. Supreme Court has found that the right of due process is not violated if a driver's license is suspended

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prior to an administrative hearing, as long as provisions are made for a swift post-suspension hearing [*Mackey v. Montrym*, 443 U.S. 1 (1979)].

- As of January 2006, 41 States and the District of Columbia have ALR laws that result in immediate license revocation based on a BAC  $\geq .08$  or a breath test refusal.

## How Do ALR Laws Work?

### ***What Provisions Should Be Included in an ALR Law?***

- The language of these laws should be consistent with the provisions of the State's administrative procedures acts.
- The arresting officer should, at the time of arrest, serve the notice of revocation (suspension), take the offender's license, and issue a temporary permit.
- The driver must have the opportunity for an administrative hearing.
- The hearing request should not be allowed to delay the revocation (suspension).
- There should be an initial license revocation (suspension) period for test failure with some period of full revocation followed by restricted driving during any remainder. Restricted driving privileges should be permitted only in very limited circumstances, and only after an initial "hard" revocation (suspension) period has been served. The initial license revocation (suspension) period for a test refusal should be longer than the period for

test failure, with no restricted driving privileges. For a repeat DWI offense within five years, the revocation (suspension) period should be considerably longer with no restricted driving privileges. In addition, licensing actions should take effect within 30 days of notice.

- The administrative sanction should be handled separately from the criminal proceeding. Due to differing procedural aspects, the findings and outcome of an ALR action should not normally affect a criminal proceeding, and vice versa.
- Although the benefits of an ALR law are numerous, some jurisdictions do experience problems in implementation that can affect the usefulness of the law. With implementation problems, States should look for ways to improve applications of ALR procedures. A recent study examined Utah's new law allowing telephonic testimony at ALR hearings. After the availability of telephonic hearings, there was a statistically significant 20-percent reduction in cases where the driver's license was returned to the offender due to the absence of the arresting officer, as a percentage of all cases where the license was returned.

### ***How Much Does An ALR Program Cost?***

A 1991 study analyzed the costs and benefits associated with ALR laws in Illinois, Mississippi, and Nevada. The study revealed that start-up and operating costs were adequately covered

with the assessment of license reinstatement fees. In addition, the annual savings in costs for night-time crashes that were reduced as a result of ALR laws ranged from \$37 million in Nevada to \$104 million in Mississippi.

### ***How Can ALR Be Financed?***

The offenders, rather than taxpayers, should pay for these programs. Some States have significantly increased the reinstatement fee for drivers whose licenses are revoked for driving while intoxicated (DWI); some States have raised all reinstatement fees; and other States have increased all license application and renewal fees. Other fines, fees, or taxes also can provide funding, such as an alcoholic beverage tax that can be earmarked for alcohol program expenses, including ALR.

## Incentive Grant Program

In 2005, Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Section 2007 of SAFETEA-LU continues the alcohol-impaired driving countermeasures incentive grant program (under Section 410 of chapter 4 of Title 23) that encourages States to adopt and implement effective programs, including ALR laws, to reduce traffic safety problems resulting from individuals driving while impaired by alcohol. A qualifying State may use these grant funds to implement impaired driving activities in accordance with the Federal statute.

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To meet the ALR criterion of the Section 410 grant program, SAFETEA-LU provides that a State's ALR system must require of all individuals who fail or refuse to submit to a chemical test that:

- First offenders be subject to at least a 90-day license suspension, provided that after 15 days they may operate a motor vehicle to travel to and from employment, school, or a treatment program, if an ignition interlock device is installed on all motor vehicles the offenders own or operate;
- Repeat offenders be subject to at least a one-year suspension or revocation, provided that after 45 days they may operate a motor vehicle to travel to and from employment, school, or a treatment program, if an ignition interlock device is installed on all the vehicles the offenders own or operate; and
- Suspensions or revocations take effect within 30 days after offenders refuse to submit to a chemical test or receive notice of having failed a breath test.

The statutory provisions of the Section 410 program will be implemented by NHTSA through a regulatory process.

## Which States have ALR?

As of January 2006, 41 States and the District of Columbia had adopted some form of administrative license revocation. The States that do not have ALR are Kentucky, Michigan, Montana, New Jersey, New York,

Pennsylvania, Rhode Island, South Dakota, and Tennessee.

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